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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by Human Rights Advocates, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[13 February 1997]

The relationship between human rights and the environment

1. Human Rights Advocates (HRA), 1/ in conjunction with the Natural Heritage Institute (NHI), 2/ submits the following intervention to the Commission on Human Rights. Since 1989, HRA and NHI have documented human rights abuses associated with environmental degradation and have brought together environmental, indigenous and human rights organizations to find solutions to these problems.

2. At the request of the Commission, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities appointed Ms. Fatma Zhora Ksentini to undertake an investigation of the link between human rights and the environment. We believe that her final report (E/CN.4/Sub.2/1994/9 and Corr. 1) represents a comprehensive survey of how environmental harm can raise significant human rights issues. It is now essential, in the aftermath of the final report, to determine what actions and procedures must be adopted by the Commission to make progress in the issues pertaining to human rights violations arising from environmental abuse. The present aim of the Commission should focus on pursuing the questions identified by the Special Rapporteur.

3. Ms. Ksentini's final report discusses the many ways in which environmental degradation has an impact on the enjoyment of recognized human rights, and confirms widespread legal recognition of this linkage. Our own investigation in this field, covering six years, has focused on documenting serious environmental harm worldwide leading to human rights abuses, and it supports many of her conclusions. We believe that there exists a strong foundation for concluding that environmental damages arising from human activities can so seriously threaten human health in some circumstances that when such activities are undertaken by States or accepted by State officials, those responsible should be held accountable under existing human rights doctrine.

4. The intrinsic link between the protection of human rights and the preservation of the environment has become increasingly apparent in the last decades, as violations of fundamental human rights protected by international law occur in many countries as a result of environmental destruction. Water and air pollution, accumulation of toxic waste, soil degradation and deforestation represent a direct threat to the enjoyment of life, health, culture, and free expression, security of person and family life. Therefore, the doctrine of human rights which protects these freedoms is suitably applied to environmental situations giving rise to abuses of these protected freedoms, whether those rights are civil, political, social, economic or cultural, and whether they are exercised individually or collectively.

5. The question of how to remedy the suffering of those whose lives are destroyed as a result of natural resource degradation has yet to be addressed by the international community. Our work has confirmed the unique role of human rights bodies in securing individual human rights and in seeking to eliminate the causes of human rights abuses, including those that are environmentally related. The Commission on Human Rights remains the most appropriate body to address environment-related human rights abuses and to provide an enforcement mechanism for violations of these rights.

6. Current situations on the international scene which reflect the relationship between human rights abuses and environmental harm confirm the need for the international community to recognize these issues and to take affirmative action to address them.

7. The practice of some Governments to harass, arrest and/or execute environmental monitors who gather and expose information on ecological and health hazards represents disturbing situations of human rights abuses linked to environmental harm.

8. Indigenous people are particularly dependent on a satisfactory environment, and therefore particularly vulnerable to development processes. Oil exploration, mining, deforestation and dam construction degrade their land and place their cultural and physical survival in peril.

9. The international traffic and dumping of illicit toxic and hazardous wastes in developing countries represent an increasing environmental problem comprising human rights dimensions. Toxics continue to endanger the lives, health and environmental quality of many people. The poor disposal of toxic mud and brine, the large number of spills from waste pits and poorly maintained pipelines, and the burning of waste oil have resulted in destruction of wildlife and fisheries, and the deterioration of the food supplies and health of the communities in which these wastes are improperly disposed. The Commission has begun to address this issue by appointing, in 1995, Ms. Ksentini as Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic wastes. Her preliminary report indicated that the issue of illegal exportation and disposal of toxic waste is closely interrelated with the issue of human rights.

10. Increasingly, international migration results from environmental degradation and unsustainable development practices. In some cases, land has been appropriated for development activities without reasonable compensation provided to the landowners. Many of the displaced are forced to leave behind their cultural heritage and livelihood, only to become migrant workers. Left unchecked, the mass migrations will continue to increase and will, in turn, contribute to environmental degradation in the areas of refuge. 3/

11. The historic development of large hydropower and irrigation projects in many parts of the world has led to displacement of human populations, disruption of food production and, in some cases, spread of disease. Some government projects to construct large-scale dams have forced mass involuntary resettlements of the local peoples without providing adequate substitute housing.

12. The right to life is universally accepted as a fundamental, non-derogable human right, and is protected by conventional and customary international law. It has been interpreted to include the duty of a State to protect potential victims from life-threatening environmental disasters that could occur from acts under its jurisdiction or control.

13. Freedom of expression and opinion, of information, of association, and the right to public participation play a crucial role in the environmental framework, because the protection of human life and well-being depends upon the public's knowledge of environmental risks and their ability to minimize or avoid them.

14. Environmental threats may also violate other human rights embodied in treaties and other international instruments, such as the rights to health, to culture, to privacy or to property, which impose similar duties upon States.

15. This statement recommends that the Commission appoint as a first step a special expert on human rights and the environment for a period of one year, with the aim of pursuing the findings and conclusions pertaining to human rights abuses arising from environmental harm contained in the final report of the Special Rapporteur to the Sub-Commission. The special expert's mandate would consist of a study of the following aspects: the extent and contours of the factual and legal relationship between human rights violations and environmental degradation; the ways in which the connections between human rights and the environment could be incorporated into the work of human rights bodies, and the ways in which human rights bodies, including the Commission, can help environmental bodies address the human rights impact of environmental problems. The mandate would also entail the submission of a report to the Commission, including: recommendations and proposals aimed at clarifying international legal responsibility in addressing these issues, identifying ways in which the Commission can complement and work with other bodies on the connections between human rights and the environment; and explaining what procedures the Commission should adopt in order to regularize its consideration of the linkage between human rights and the environment.

16. Furthermore, we believe that the establishment of a Commission-level special rapporteur or working group on human rights and the environment for a period of three years is crucial to the continued development and progress of the work of the United Nations on human rights and the environment, and to the overall development of corrective and remedial mechanisms to address the human impact of environmental issues. This mandate would comprise a study of legal and institutional issues as well as the monitoring of communications on situations relating to human rights violations linked to environmental degradation.

Notes

1/ Human Rights Advocates is a non-governmental organization which provides education to the public on their human rights and advocates protection of those rights in international and other forums.

2/ The Natural Heritage Institute is a non-profit, non-governmental organization which provides counselling and advocacy for public interest organizations and government institutions on natural resource problems, including international conservation and human rights.

3/ Michelle Leighton Schwartz, "International legal protection for victims of environmental abuse", Yale Journal of International Law, vol. 18 (1993).
